

§ 1156.18

45 CFR Ch. XI (10–1–10 Edition)

(b) *Formal investigation, conciliation, and hearing.* If the Endowment cannot resolve the complaint during the early stages of the investigation, it shall:

(1) Complete the investigation of the complaint.

(2) Attempt to achieve voluntary compliance satisfactory to the Endowment, if the investigation indicates a violation.

(3) Arrange for enforcement as described in § 1156.19, if necessary.

[63 FR 6876, Feb. 11, 1998, as amended at 68 FR 51385, Aug. 26, 2003]

§ 1156.18 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act; or

(b) Cooperates in any mediation, investigation, hearing, or other part of the Endowment's investigation, conciliation and enforcement process.

§ 1156.19 Compliance procedure.

(a) The Endowment may enforce the Act and the regulations in this part through:

(1) Termination of a recipient's Federal financial assistance from the Endowment under the program or activity involved where the recipient has violated the Act and the regulations in this part. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, a case which is settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from the Endowment unless it is reopened because of a violation of the agreement.

(2) Any other means authorized by law including, but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or the regulations in this part.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or the regulations in this part.

(b) The Endowment will limit any termination under paragraph (a)(1) of this section to the particular recipient and particular program or activity or portion thereof that the Endowment finds in violation of the regulations in this part. The Endowment will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from the Endowment.

(c) The Endowment will not take action under paragraph (a) of this section until:

(1) The Chairperson has advised the recipient of its failure to comply with the Act and the regulations in this part and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Chairperson has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the program or activity involved. The Chairperson will file a report whenever any action is taken under paragraph (a) of this section.

(d) The Chairperson also may defer granting new Federal financial assistance from the Endowment to a recipient when a hearing under paragraph (a)(1) of this section is initiated.

(1) New Federal financial assistance from the Endowment includes all assistance for which the Endowment requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from the Endowment does not include assistance approved prior to the beginning of a termination hearing under paragraph (a)(1) of this section or increases in funding as a result of changed computation of formula awards.

(2) The Endowment will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under paragraph (a)(1) of this section. The Endowment will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual